

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimant
Terry Sherman

Case Number: 01-03084

Names of the Respondents
Salomon Smith Barney Inc. A/K/A Consulting
Group- Wilmington, James D. Stoker II, Ray J. Miller
and Nigel J. Bowman

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant, Terry Sherman, hereinafter referred to as "Claimant": Jo Ann Merica, Esq., of Merica, & Bourland, P.C., located in Austin, Texas.

Respondents Salomon Smith Barney Inc., A/K/A Consulting Group -Wilmington, ("SSB"), James D. Stoker II, ("Stoker") Ray J. Miller, ("Miller") and Nigel J. Bowman ("Bowman"), hereinafter collectively referred to as "Respondents": Robert S. Whitman, Esq., of Orrick, Herrington & Sutcliffe L.L.P., located in New York, New York.

CASE INFORMATION

Statement of Claim filed: June 1, 2001.

Claimant Terry Sherman signed the Uniform Submission Agreement: June 14, 2001.

Joint Statement of Answer filed by Respondents on or about: August 29, 2001.

Respondent Stoker filed an executed Uniform Submission Agreement on: August 27, 2001.

Respondent SSB filed an executed Uniform Submission Agreement on: August 24, 2001.

Respondent Miller filed an executed Uniform Submission Agreement on: August 24, 2001.

Respondent Bowman filed an executed Uniform Submission Agreement on August 24, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; misappropriation of referrals; failure to supervise; self -dealing; violations of company policies; tortuous interference with business relations; conspiracy and intentional interference with business relations.

Unless specifically admitted in their Joint Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: all or part of Claimant's claims are barred by the Statute of Frauds; "Consulting Group-Wilmington" is an

operation division of SSB, not a separately incorporated business, and therefore has no actual or potential liability toward Claimant; Claimant is not entitled to an award of punitive or exemplary damages; SSB's company policies do not create a private cause of action; no fiduciary duty existed between Claimant and any of the Respondents.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 200,000.00
Punitive Damages	\$ 250,000.00
Future Damages	All fees for future business; reinstatement of the 60/40 fee arrangement.
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ unspecified

Respondents requested that the claims filed against them be dismissed in their entirety and that all costs be assessed against the Claimant.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Salomon Smith Barney Inc., A/K/A Consulting Group- Wilmington and James D. Stoker II are jointly and severally liable for and shall pay to Claimant Terry Sherman the sum of \$16,562.50 in damages for outstanding referrals that have accrued through December 5, 2002;
2. Respondents Salomon Smith Barney Inc., A/K/A Consulting Group- Wilmington and Ray J. Miller are jointly and severally liable for and shall pay to Claimant Terry Sherman the sum of \$8,281.25 in damages for outstanding referral fees that have accrued through December 5, 2002;
3. Respondent Salomon Smith Barney Inc., A/K/A Consulting Group- Wilmington is solely liable for and shall pay to Terry Sherman the sum of \$8,281.25 in damages for outstanding referral fees that have accrued through December 5, 2002;
4. Respondents Salomon Smith Barney Inc., A/K/A Consulting Group- Wilmington and James D. Stoker II are jointly and severally liable for and shall pay to Claimant Terry Sherman the sum of \$13,500.00 as attorneys' fees;
5. Respondents Salomon Smith Barney Inc., A/K/A Consulting Group Wilmington and Ray J. Miller are jointly and severally liable for and shall pay to Claimant Terry Sherman the sum of \$6,750.00 as attorneys' fees;
6. Respondent Salomon Smith Barney Inc., A/K/A Consulting Group Wilmington is solely liable for \$6,750.00 of the attorneys' fees.
7. The authority for the award of attorneys fees is based upon the pleadings, the evidence presented at the hearing on the merits, Texas state statute and federal

statutes;

8. Respondent Salomon Smith Barney Inc., A/K/A Consulting Group- Wilmington is solely liable to and shall pay to Claimant Terry Sherman 15% of all revenues generated by Salomon Smith Barney Inc., A/K/A Consulting Group -Wilmington in the period of December 6, 2002 through December 31, 2005 as a result of referrals to Respondent Salomon Smith Barney Inc., A/K/A Consulting Group- Wilmington from the law firm now known as Giordani, Schurig, Beckett & Tackett;
9. Claimants claims against Nigel J. Bowman are dismissed in their entirety;
10. All costs not specifically enumerated herein shall be borne by the party who incurred them; and,
11. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$300.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, the Respondent Solomon Smith Barney is a member firm.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 2,500.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450	= \$ 450.00
Pre-hearing date: November 29, 2002	1 session

One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: January 28, 2001	1 session

Seven (7) Hearing sessions with Panel @ \$1,125.00	= \$7,875.00
Hearing Dates: December 3, 2002	2 sessions
December 4, 2002	3 sessions
December 5, 2002	2 sessions

Total Forum Fees	= \$9,450.00
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The Panel has assessed \$9,450.00 of the forum fees to Respondent Salomon Smith Barney Inc. A/K/A Consulting Group -Wilmington.

Fee Summary

1. Claimant Terry Sherman is solely liable for:

Initial Filing Fee	= \$ 300.00
Less payments	= \$ 1,425.00
Balance Refunded from NASD Dispute Resolution	= \$ 1,125.00

2. Respondent Salomon Smith Barney Inc. A/K/A Consulting Group- Wilmington is solely liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 9,450.00
Total Fees	= \$14,050.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution	= \$ 9,450.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Bertrand C. Moser, Esq.-Public Arbitrator, Presiding Chairperson
Leroy Patton, Esq.-Public Arbitrator
Kathy R. Holler-Non-Public Arbitrator

Concurring Arbitrators' Signatures

Bertrand C. Moser
Public Arbitrator, Presiding Chairperson

Signature Date

Leroy Patton, Esq.
Public Arbitrator

Signature Date

Kathy R. Holler
Non-Public- Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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Public Arbitrator, Presiding Chairperson

1/12/03
Signature Date

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Public Arbitrator

Signature Date

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01/17/03 FRI 11:54 FAX

NASD REGULATION

NASD # 01-03084

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